RECEIVED
CENTRAL FAX CENTER
OCT 1 3 2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Michihiro FUJIYAMA et al.**   Art Unit: **2621**

Application Number: **10/700,518**   Examiner: **Jessica M. Roberts**

Filed: **November 5, 2003**   Confirmation Number: **5923**

For: **IMAGE PROCESSING APPARATUS**

Attorney Docket Number: **032085**
Customer Number: **38834**

AGENDA FOR INTERVIEW

Commissioner for Patents   October 13, 2009
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants gratefully appreciate the courtesy extended by Examiner Roberts in granting the telephone interview scheduled October 15, 2009, 3:00 PM.

The Applicants' representative, Tsuyoshi NAKAMURA, would like to discuss the following issues related to proposed amended claims.

Application No.: 10/700,518   Agenda for Interview
Art Unit: 2621   Attorney Docket No.: 032085

INTERVIEW AGENDA

It is respectfully requested that this AGENDA is NOT made in record. Applicants would

like to propose the attached amendments of independent claims 1, 6 and 7. Applicants would be

grateful if the Examiner could provide **feed back** to Applicants' representative after

consideration of the following comments.

Claim Rejections - 35 U.S.C. §101

**Claim 6 is rejected under 35 U.S.C. §101 because the claimed invention is directed
to non-statutory subject matter.**

According to "New Interim Patent Subject Matter Eligibility Examination Instructions"

effective on August 24, 2009, the followings are provided:

B. Processes (methods)
A process claim, to be statutory under § 101, must pass the machine-or-
transformation test (Mor- T test), which ensures that the process is limited to a
particular practical application.

In accordance with the **M-or-T test**, the claimed process must:
(1) be tied to a particular machine or apparatus (machine implemented); or
(2) particularly transform a particular article to a different state or thing.

A method claim that does not require machine implementation or does not cause a
transformation will fail the test and should be rejected under § 101.
However, the mere presence of a machine tie or transformation is not sufficient to
pass the test. When a machine tie or transformation has been identified, it must be
further determined that the tie is to a **particular** machine or the particular
transformation is of a **particular** article.

A "particular" machine or apparatus or transformation of a "particular" article
means that the method involves a *specific* machine or article, not any and all
machines or articles. This ensures that the machine or transformation imposes real
world limits on the claimed method by limiting the claim scope to a particular
practical application.

Page 2

Application No.: 10/700,518   Agenda for Interview
Art Unit: 2621   Attorney Docket No.: 032085

For computer implemented processes, the "machine" is often disclosed as a general purpose computer. In these cases, the general purpose computer may be sufficiently "particular" when programmed to perform the process steps. Such programming creates a new machine because a general purpose computer, in effect, becomes a special purpose computer once it is programmed to perform particular functions pursuant to instructions from program software. To qualify as a particular machine under the test, the claim must clearly convey that the computer is programmed to perform the steps of the method because such programming, in effect, creates a special purpose computer limited to the use of the particularly claimed combination of elements (i.e., the programmed instructions) performing the particularly claimed combination of functions. If the claim is so abstract and sweeping that performing the process as claimed would cover substantially all practical applications of a judicial exception, such as a mathematical algorithm, the claim would not satisfy the test as the machine would not be sufficiently particular.

Moreover, "INTERIM EXAMINATION INSTRUCTIONS FOR EVALUATING SUBJECT MATTER ELIGIBILITY UNDER 35 U.S.C. §101" presents the following example as **patent eligible**, explaining that, under BRI, the step of comparing requires a particularly programmed microprosessor.

A method of evaluating search results, comprising:
sorting the results into groups based on a first characteristic;
ranking the results based on a second characteristic; and
comparing, using a microprocessor, the ranked results to a predetermined list of desired results to evaluate the success of the search.

As described in Fig. 1 of the present application and page 6, lines 5- 17 of the specification, a microcomputer 24 is used. It is believed that the amended feature of claim 6 ties the claim to a particular machine; also the machine imposes a meaningful limit and is more than insignificant extra-solution activity because the step of issuing is central to the method as explained in the "INTERIM EXAMINATION INSTRUCTIONS."

Page 3

Application No.: 10/700,518   Agenda for Interview
Art Unit: 2621   Attorney Docket No.: 032085

Claim Rejections - 35 U.S.C. §103

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Matsumoto et al. (USP 7,177,523) in view of Okabayashi et al. (USP 6,751,399) and further in view of Ohmori et al. (USP 6,678,397).**

In order to more clearly distinguish over the cited references, proposed amendments of independent claims 1, 6 and 7 include positive recitation "*wherein the issuer determines whether the period changing instruction is for shortening the image reproducing period or the period changing instruction is for extending the image reproducing period.*"

Support for Amendments

Applicants believe that this Amendment is supported by Fig. 5, steps S1 and S3 as well as the specification (page7, lines 15-17; page 8, lines 17-18; and page 9, lines 2-5).

Specifically, the specification of the present application describes that a change of shortening the image reproducing period of the image is performed by turning the jog dial 26b, one click of the jog dial 26b to the right direction shortens the image reproduction period (page7, lines 15-17); that one click of the jog dial 26b to the left direction lengthens the image reproducing period (page 8, lines 17-18); and that in the above-described example, it is submitted that the jog dial 26b is turned to the right direction in order to shorten the image reproducing period, however, this is related to the reproducing direction and is for a case where the reproduction is made in the forward direction (page 9, lines 2-5).

Page 4

Application No.: 10/700,518   Agenda for Interview
Art Unit: 2621   Attorney Docket No.: 032085

Considering these descriptions, it is believed that a skilled artisan would understand that

the determination steps S1 and S3 of Fig. 3 mean determining whether the period changing

instruction is for shortening the image reproducing period or the period changing instruction is

for extending the image reproducing period.

Applicants would be grateful if the Examiner could provide **feed back** about the above-

mentioned support for the present Amendment.

Claim Rejections - 35 U.S.C. §112

Claims 7 and 8 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Claims 7 and 8 are rejected under 35 U.S.C. §112, second paragraph, as including indefiniteness.

With regard to the rejection under 35 U.S.C. §112, first paragraph, the Examiner alleges

that the cited pages from the specification does not provide support for the subject matter as

claimed (Please see page 3, last paragraph to page 4, line 2 of the Action).

Frame renewer

The Examiner appears to have a problem with having the frame renewer independently

from the reproducer as alleged on page 5, item 8 of the Action. To solve this issue, Applicants

rewrite claim 7 to delete the frame renewer and add the function corresponding to the frame

renewer to the reproducer as attached herewith.

Applicants bilieve that this Amendment for the reproducer is supported by the

specification (page 5, line 20 to page 6, line 17). In other words, the main microcomputer 24

Page 5

Application No.: 10/700,518   Agenda for Interview
Art Unit: 2621   Attorney Docket No.: 032085

reads the waiting time included in the management information of the frame data on the basis of

the management information address of the TAG data and stores the read waiting time in the

register 24a as a period (image reproducing period) lapsing before being renewed to a next image

(page 6, lines 13-17). Also, the waiting time is a time interval (page 5, line 20).

First renewer

        Applicants believe that the first renewer is supported as follows:

        (i) *a first renewer which immediately renews,*

Support:

Page 7, line 19 of the specification as well as Fig. 6, step S27 (immediately exits from the

loop).

        (ii) *when an operation for shortening said renewing interval is made by said changer,*

Support:

Page 11, lines 5-6 of the specification. If the renewal instruction is issued in the step S7

or S17 of Fig. 5, the operation is for shortening the renewal interval as described in steps S5 or

S15 of Fig. 5.

        (iii) *a frame currently being reproduced at an accepting timing of the operation to a frame to be subsequently reproduced*

Support:

Application No.: 10/700,518   Agenda for Interview
Art Unit: 2621   Attorney Docket No.: 032085

Page, 11, lines 9-21 of the specification. The steps S31 and S33 of Fig. 6 renew the current frame to the frame to be subsequently reproduced, that is, the next frame or the previous frame according to the reproduction direction.

Second renewer

Applicants believe that the second renewer is supported as follows:

(i) a frame currently being reproduced at an accepting timing of the operation to a frame to be subsequently reproduced

Support:

Page, 11, lines 9-21 of the specification. The steps S31 and S33 of Fig. 6 renew the current frame to the frame to be subsequently reproduced, that is, the next frame or the previous frame according to the reproduction direction.

(ii) with a renewing timing such that the renewing interval between the frame currently being reproduced and a frame to be subsequently reproduced becomes equal to the renewing interval changed by said changer.

Support:

Page 11, lines 6-11 of the specification. The value of the register 24a is changed in the step S9 or S13 of Fig. 5. This value is set to the timer at the step S21 of Fig. 6. At the timing when the timer elapses, the current frame is renewed (step S25 is YES) such that the renewing interval becomes equal to the renewing interval changed by said changer.

Page 7

Application No.: 10/700,518   Agenda for Interview
Art Unit: 2621   Attorney Docket No.: 032085

In order to facilitate the examination process, Applicants would like to solve the above-mentioned issues at earlier stage. The Examiner's comments or suggestion to Applicants' proposed amendment would be gratefully appreciated.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

Tsuyoshi Nakamura
Limited Recognition No. L0396
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

TN/ya

Page 8